

Sent by email only to info@cilexregulation.org.uk

And sue.chandler@cilexregulation.org.uk

26 June 2023

Specialist Regulation for the Future of an Independent Profession

Dear Sir/Madam,

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the consultation by CILEx Regulation Limited (CRL).

In principle the Panel is not opposed to some of the aims or proposals outlined in the consultation paper. However, to support or endorse the proposals, the Panel would need to see more evidence and crucially, a more in-depth analysis of how some the proposals would be achieved, including the trade-offs that may have to be made. Unfortunately, these important factors are mostly missing from the consultation.

The Panel emphasises the importance of the evidence needed to make the case because it is often this evidence that convinces us or helps us to evaluate the risks. In the absence of evidence, the Panel finds itself unable to arrive at a position on many of the issues highlighted, even if in principle we agree with the underlying objectives of the proposals.

The consultation document is also silent on how these proposed changes will be monitored and evaluated which is also of concern to the Panel. In 2022, the panel published a paper¹ on how monitoring and evaluation should be planned, and we recently published a report on how regulators can be more consumer focused². These reports highlight the role of consumer research, as ways of strengthening the regulatory policy cycle. Our reports may be of help to CRL in its consideration of these important issues.

¹ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2022/06/22.06.30-Monitoring-and-Evaluation-in-Legal-Services.pdf>

² <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2023/06/Consumer-focused-regulation-report-FINAL.pdf>

Reflections on some points

The Panel intuitively agrees with the aim to make it easier to set up regulated law firms and we agree that this may bring benefits to consumers. However, the consultation document is silent on how this will be achieved, nor does it outline the current issues and problems with the existing process. We are concerned that making it easier to set up a regulated firm could also bring risks to consumers. In the absence of these important details, we are unable to arrive at a position on the proposal.

We agree with CRL that there must be a broader conversation about reform of regulation for non-authorised CILEX members. We concur that there ought to be fair and proportionate charges amongst those under the CRL umbrella. That said, we are of the strong opinion that CRL should continue to regulate non-authorised members, given the wider benefit of this to consumers.

The rationale for the reduction in the Practising Certificate Fees (PCF) is not clear to us. The fees have been stable since 2017, with just a £3 increase over the last seven years. As such it is unclear to us why a strong argument is being made for the reduction in fees, without any evidence or clear rationale for why the fees should be lowered. Of course, we are aware that regulated individuals or firms would welcome savings, but this cannot be the sole driver. We know that many practitioners accept that regulation offers benefits and protections that has a cost attached. Costs have barely gone up in seven years, so it is not clear if complaints are being made about the cost of regulation or whether CRL has found that it is more expensive than other regulators after carrying out a comparable analysis. Moreover, against the backdrop of certain deficiencies, eg lack of consumer research which require money and which we have not seen much of from CRL, we cannot understand the rationale for cutting the PCF.

The consultation paper covers many interesting ideas and points, but as noted above, we found ourselves unable to fully engage with these questions because we do not have the supporting evidence to comment.

Should you have any questions pertaining to this response, please contact Lola Bello, Consumer Panel Manager (lola.bello@legalservicesconsumerpanel.org.uk)

Yours sincerely,



Sarah Chambers
Chair
Legal Services Consumer Panel.

